



## U.S. DEPARTMENT of STATE

### Malaysia

#### Country Reports on Human Rights Practices - [2003](#)

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Malaysia is a federation of 13 states and 3 federal territories with a parliamentary system of government based on periodic multiparty elections. Opposition parties actively contest elections but face significant obstacles in competing with the ruling National Front coalition, which has held power for more than 45 years. In the November 1999 elections, opposition parties won approximately 25 percent of the seats in the Parliament, and an opposition party also retained control of one state government and gained control of another. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermined judicial independence and strengthened executive influence over the judiciary.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the control of the Home Minister. Members of the police committed human rights abuses.

The country has a free market economy and a population of approximately 25 million. The economy grew 0.4 percent in 2001 but expanded in 2002 to 4.1 percent growth. Analysts expected the economy to grow from 4.2 percent to 4.8 percent in 2003. During the year, the Government continued its expansionary fiscal and monetary policies and took an active role in managing the export-oriented economy. Services and manufacturing accounted for 57 percent and 30.4 percent, respectively, of the gross domestic product. The unemployment rate was approximately 3.5 percent.

The Government generally respected the human rights of its citizens; however, serious problems remained. The Government acknowledged that it restricted certain political and civil rights in order to maintain social harmony and political stability. Police killed a number of persons in the course of apprehending them, and there were deaths in custody as well. Other problems included police abuse of detainees, use of the Internal Security Act and other statutes to arrest and detain persons without charge or trial, persistent questions about the impartiality and independence of the judiciary, and restrictions on the freedom of the press, freedom of association, and freedom of assembly. There continued to be some restrictions on religious freedom and workers rights and instances of discrimination and exploitation of indigenous groups. Longstanding policies gave preferences to ethnic Malays in many areas. The country was a source and destination for trafficking in women and girls for the purposes of prostitution.

### RESPECT FOR HUMAN RIGHTS

#### Section 1 Respect for the Integrity of the Person, Including Freedom From:

##### a. Arbitrary and Unlawful Deprivation of Life

There were no reports of political killings; however, the press reported that police killed 27 persons while apprehending them. The criminal procedure code empowers magistrates and public prosecutors to investigate deaths and charge those responsible under the penal code. However, no such prosecutions were brought forward during the year.

The press reported that 11 persons died in police custody during the year. The law requires that a magistrate investigate all such deaths; an inquiry was begun in two of these cases. In July, the Government-sponsored Human Rights Commission of Malaysia (Suhakam) stated that it was aware of "numerous" complaints of deaths in police custody, police brutality, and negligence. In August, a 28-year-old man died in police custody in Kuala Lumpur. When the autopsy attributed the death to a perforated ulcer, the man's family disputed the finding, claiming his body was heavily bruised, and sought a second, independent autopsy. The court rejected the application on the basis that the relatives had insufficient personal interest in the victim. The family of the victim filed an appeal against the court's decision, which was still pending at year's end.

In August 2002, the High Court overturned a May 2001 Coroner's Court ruling that there was no criminal wrongdoing in the 1998 fatal shooting of six men at close range by police officers. The High Court found that the police were responsible for murderous assault, but the court took no action against them by year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

No constitutional provision or law specifically prohibits torture. However, laws that prohibit "committing grievous hurt" encompass torture, and, according to the Government, every report of abuse of prisoners is investigated. There were press reports of alleged torture or mistreatment by the police. Local nongovernmental organizations (NGOs) stated that police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. At year's end, there was still no government response to the March 1999 police report filed by opposition activist Abdul Malek bin Hussin in which he accused police of torturing him in 1998 while he was under detention. No further action by the Government was expected (see Section 1.d.).

In June, the Bar Council called for immediate investigation of a "number" of allegations of improper conduct of police and other law enforcement officers. The authorities investigated some of the cases; however, the Government routinely does not release information on the results of investigations, and whether those responsible are punished is not always known. According to the Police Commission report covering 2002, disciplinary actions were initiated against 754 police personnel, and 98 police officers were relieved of their duties that year.

In August, the High Court reversed a Sessions Court's acquittal and convicted a police constable for the 2002 rape of two foreign women who were in custody at the time of the rape (see Section 5).

On several occasions, riot police forcibly dispersed peaceful demonstrators around the country, using truncheons, water cannons, and tear gas. The press reported that the police forcefully dispersed a peaceful May Day celebration (see Section 2.b.).

Logging companies reportedly used police force and intimidation to appropriate land from indigenous Iban and Penan communities in Sarawak (see Section 5).

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The immigration law, in effect since 2002, prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a (Islamic) laws, which bind only Muslims, also prescribe caning (see Section 1.e.). The caning, which is carried out with a 0.5-inch-thick wooden cane, commonly causes welts and sometimes causes scarring. Males over 50 and women are exempted from caning. According to the provisions of the Child Act passed in December 2002, male children 10 years of age and older may be given up to 10 strokes of a "light cane" (see Section 5).

Prison overcrowding was a serious problem. In January, Suhakam called on the Government to improve conditions for inmates at the Kajang women's prison. Press reports indicated that the prison, which has a maximum capacity of 450, housed 1,450 prisoners. According to the Deputy Home Minister, the country's prison system had a capacity of 24,000 prisoners but actually held 35,000 inmates. Five new prisons, with the capacity to hold 7,900 prisoners, were under construction at year's end and scheduled for completion in 2004. Additionally, in February, the Deputy Home Minister announced that a parole system for prisoners, to be implemented by year's end, would further reduce prison overcrowding.

The law provides that young boys and girls may be placed in judicially approved places of detention. Children have the right to remain with their imprisoned mothers until the age of 3 years and can stay beyond that age with approval of the Director General of Prisons. In May, the press reported that a juvenile was arrested and placed in a detention facility together with adult detainees.

Special security prisoners were detained in a separate detention center (see Section 1.d.). During the year, a number of persons released from detention under the Internal Security Act (ISA) alleged that during the initial stages of their detention they were subject to intensive interrogation and disoriented by isolation, deliberately interrupted sleep, and abusive treatment by police (see Section 1.d.).

The U.N. High Commissioner for Refugees (UNHCR) made credible allegations of inadequate food, inadequate medical care, poor sanitation, and abuse by guards in government camps for illegal immigrants. According to credible reports, this overcrowding and related poor health conditions contributed to the deaths of several detainees. Suhakam, which visited the camps in January, found 2,000 detainees enduring hot, uncomfortable, and cramped living conditions. During the year, thousands of Acehnese asylum seekers were detained in camps for illegal immigrants pending deportation to Indonesia (see Section 2.d.). Some individuals convicted of violating the immigration law were subject to caning. In January, Suhakam confirmed that they found detainees with fresh scars at Semenyih camp and said that it amounted to cruel and inhumane treatment.

The Government does not have any agreement with the International Committee of the Red Cross (ICRC) that permits visits to prisoners. NGOs and the media allegedly were not permitted to monitor prison conditions. Access to illegal alien detention camps was restricted, although UNHCR officials were given access to several camps to identify and interview potential refugees at various times during the year (see Section 2.d). In addition, Suhakam officials visited various camps and prisons at different times during the year.

#### d. Arbitrary Arrest, Detention, or Exile

The law permits police to arrest individuals for some offenses without a warrant. Police may hold suspects for 24 hours without charge. A magistrate may extend the period for up to 2 weeks. In general, police observed these restrictions. However, Suhakam reported in 2002 that some detainees were held beyond the 2-week limit. Suhakam also noted that police sometimes released suspects and then quickly rearrested them on new but similar charges. In one 2002 case, a detainee was consecutively held in this manner for a total of 77 days. Police routinely denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations. Judicial decisions generally upheld this practice.

Modeled on the British system, The Royal Malaysia Police (PDRM) is under the command of the Inspector General of Police (IGP), who reports to the Minister of Home Affairs. The IGP is responsible for organizing and administering the police force. The functions of the police are generally divided into five areas: The enforcement of law and order; the maintenance of national peace and security; the prevention and detection of crimes; the arrest and prosecution of offenders, and the gathering of security intelligence. Consisting of 74,000 officers, the PDRM generally was regarded as well organized and efficient. During the year, there were some allegations of corruption and police abuse of detainees. In December, the Prime Minister (who is concurrently Home Affairs Minister) announced that a Royal Commission would be set up to review such issues within the police force as police brutality, poor service, and corruption. During the year, the PDRM in conjunction with Suhakam organized a number of training courses throughout the country focused on informing police officers about the importance of human rights. In November, the Prime Minister appointed a new IGP with a reputation as a tough disciplinarian.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, and the Dangerous Drugs Act (Special Preventive Measures).

The ISA, enacted in 1960 during an active communist insurgency, empowers the police to hold for up to 60 days any person who acts "in a manner prejudicial to the security of Malaysia." The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to "imposed restricted conditions" for the remainder of their detention periods. These conditions limit their freedom of speech, freedom of association, and freedom to travel outside the country. Since its inception over 4,000 persons have been detained under the ISA.

Even when there are no formal charges, the ISA requires that the authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. Local human rights NGOs claimed that the police at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

Amendments to the ISA in 1988 circumscribed judicial review of ISA detentions. The Bar Council has in the past asserted that detentions under the ISA should be subject to full judicial review. The courts did not concur with this interpretation, limiting their review to procedural issues. Detainees freed after judicial order nearly always were detained again immediately. Following several successful legal challenges to ISA detentions on procedural grounds, in August, the Federal Court ruled that the courts should not intervene where matters of national security and public order are at stake.

According to the Government, the goal of the ISA is to control internal subversion. In August, the Government stated that there were 99 persons in detention under the ISA of whom 79 were suspected of involvement in terrorism. These included 61 members of Jemaah Islamiyah and 18 members of Kampulan Militan Malaysia. Among those detained were members of the opposition Islamic Party (PAS), including Nik Adli, son of the PAS leader.

There were no new reports of the Government using the ISA against political opponents during the year. However, the ISA, and the threat of invoking the ISA, have in the past been used to intimidate and restrict political dissent. For example, in 2001 the Government used the ISA to detain 10 political activists who were leaders of, or closely associated with, the opposition National Justice Party (Keadilan), claiming that they represented a threat to national security. In August 2002, the Federal Court ruled that the detentions were unlawful. However, as the Court's rulings focused on the police's initial 60-day detention order and not on the Home Affairs Ministry's subsequent 2-year detention, the six remained in prison until June, when they were released. Two of those released claimed that their police interrogations were limited to questions about their political beliefs and personal life and not about the alleged offenses for which they initially were detained.

Opposition leaders and human rights organizations continued to call on the Government to repeal the ISA and other legislation that deprived persons of the right to defend themselves in court. In April, after nearly a year of reviewing the case, Suhakam publicly urged the Government to release the six Keadilan detainees and recommended that the ISA be rewritten to ensure that

the Government could not use it against political opponents. Suhakam also recommended that ISA detainees have access to legal counsel within 24 hours of detention and to families within 48 hours. The Suhakam 2002 annual report noted that detention without trial constituted a violation of human rights.

The Government stated that the move by foreign governments to implement preventive detention measures to combat terrorism underscored the country's continued need for the ISA. However, in September, the Minister of Legal Affairs said that the Government was reviewing the ISA and would incorporate Suhakam's recommendations into its report.

Under the Emergency Ordinance, the Home Minister may issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence." In practice, the Government used the Emergency Ordinance for other reasons.

Provisions of the Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain suspected drug traffickers without trial for up to 39 days before the Home Minister must issue a detention order. Once an order is issued, the detainee is entitled to a hearing before a court, which may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. The police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges. During the year, the Government detained over 1,975 persons under the act.

The Restricted Residence Act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists questioned the need for this colonial-era law and called for its repeal. The Government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted. The Government did not disclose how many persons were subject to the Restricted Residence Act and no accurate estimate was available.

Immigration laws were used to detain alleged illegal immigrants. The detainees were not accorded any administrative or judicial hearing and were released only after their employers proved their legal status. Those who were able to produce legal documents normally were released immediately; those who were unable to prove their legal status often were held for extended periods before deportation. Illegal immigrants were kept in detention centers that were separate from prisons. There is no codified legal distinction made between illegal workers, asylum seekers and trafficking victims (see Sections 1.c. and 2.d.).

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

Section 396 of the Criminal Procedure Code allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to flee.

The Constitution provides that no citizen may be banished or excluded from the Federation. However, according to the terms of a 1989 peace agreement, Chin Peng, the 80-year-old former leader of the Communist insurgency in the country lives in exile in Thailand and has been denied permission to return to the country.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, over the last 20 years government action, constitutional amendments, legislation restricting judicial review, and other factors limited judicial independence and strengthened executive influence over the judiciary. The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves.

The Government limited judicial independence significantly in 1988 through a constitutional amendment that provided that judicial powers would be conferred by Parliament rather than being vested directly in the courts. The amendment also conferred certain judicial powers on the Attorney General, including the authority to instruct the courts on which cases to hear, the power to choose venues and the right to discontinue cases. The Attorney General has control and direction of all criminal prosecutions under the Criminal Procedure Code and has assumed responsibility for judicial assignments and transfers. Since 1988, senior judges have been appointed based on the recommendation of the Prime Minister.

In recent years, members of the bar, NGOs and other observers have expressed serious concern about the general decline of judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. The most widely criticized such case was that of former Deputy Prime Minister Anwar Ibrahim. In 1998, after a peaceful demonstration in which he called for Prime Minister Mahathir's resignation, Anwar was detained for alleged corruption and sodomy. In 1999, Anwar was convicted of four counts of corruption and sentenced to 6 years in prison. Appeals in 2000 and 2002 were denied. In 2000, Anwar was convicted on a separate charge of sodomy and

sentenced to 9 years in prison, to be served consecutively with the corruption sentence. In April, the Court of Appeal upheld this conviction. Anwar appealed the decision to the Federal Court, and the case was pending at year's end.

According to many legal experts, both domestic and international, Anwar Ibrahim is a political prisoner because he was charged, tried, and convicted in a legal process that was politically motivated and patently unfair. Observers alleged manufactured charges of corruption and sodomy, questionable rulings by the presiding judges that facilitated the prosecution and greatly limited Anwar's defense, and an unwillingness by the judiciary to consider reasonable bail requests. In July, three of the judges involved in Anwar's case were promoted to higher positions ahead of judges with more seniority. According to the law, Anwar Ibrahim is classified as a common criminal who does not have the right to receive visits from international human rights organizations.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts; however, a 1997 amendment to the Criminal Procedure Code strengthened prosecutors' ability to bring a case to trial by reducing the standard of proof necessary to avoid summary dismissal of the case.

The Courts of Judicature Act limits a defendant's right to appeal in some circumstances. The Government stated that the limits expedited the hearing of cases in the upper courts, but the president of the Bar Association said that the act imposed too many restrictions on appeals.

High Courts have original jurisdiction over all criminal cases involving serious crimes. Minor civil suits are heard by Sessions Courts. Juvenile Courts try offenders below 18 years of age. The Special Court tries cases involving the King and the Sultans. The Court of Appeal has appellate jurisdiction over High Court and Sessions Court decisions. The Federal Court, the country's highest court, reviews Court of Appeal decisions.

The Essential (Security Cases) Regulations restrict the right to a fair trial by lowering the standard for accepting self-incriminating statements by defendants as evidence in firearm and certain national security cases. The regulations also allow the authorities to hold an accused for an unspecified time before making formal charges.

Even when the Essential Regulations are not invoked, police sometimes used other tactics to limit the legal protections of defendants. For example, during a trial police may summon and interrogate witnesses who have previously given testimony that was not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves. However, the use of contempt charges against defendants and their attorneys appeared to be decreasing. During the year, a lawyer active in representing the families of persons who died in custody was charged with intentionally insulting a public servant and criminally intimidating a witness during a 2002 inquest hearing. The prosecution subsequently dropped the first charge, and a High Court judge dismissed the second charge. Observers believed the case to be an aberration and did not believe there was a government policy to hinder public defenders.

Certain provisions of the Anti-Corruption Act impinge on the presumption of a defendant's innocence. A 1997 amendment to the act requires that an accused prove that he acquired monetary and other assets legally.

Shari'a laws administered by state authorities through Islamic courts bind Muslims, the large majority of whom are ethnic Malays. These laws vary from state to state. In 2002, the Government established a committee to recommend ways to harmonize Shari'a laws throughout the country, but any recommendations it may make will have to be adopted by individual state legislatures. The Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody (see Section 2.c.).

Indigenous peoples in Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Additionally, Penghulu (village head) courts may adjudicate minor civil matters, but these were rarely used.

The military has a separate system of courts.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law protects against such practices; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow the police to enter and search without a warrant the homes of persons suspected of threatening national security (see Section 1.d.). Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The Anti-Corruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones.

Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years (see Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (see Section 2.b.).

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions (see Section 2.c.).

Muslim couples must take premarital courses (see Section 5).

Two state governments sought to restrict Muslim women's dress (see Section 5). In Kelantan, the state government decreed that female performers may appear only before female audiences.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and freedom of the press; however, some important legal limitations exist, and in practice, the Government restricted freedom of expression and intimidated most of the print and electronic media into practicing self-censorship. According to the Government, restrictions on this freedom were imposed to protect national security, public order, and friendly relations with other countries.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice the Sedition Act, Official Secrets Act (OSA), criminal defamation laws, and some other laws were used to restrict or to intimidate dissenting political speech.

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies, although many persons still criticized the Government publicly. In June 2002, the opposition leader Lim Kit Siang and a number of his colleagues were arrested for distributing leaflets that criticized the Prime Minister's declaration that the country was an Islamic state. Throughout the year, Government officials warned that political parties that raised sensitive issues and threatened national stability would be charged under the Sedition Act. In May, the editor of the opposition paper Harakah was fined \$1,300 (5,000 ringgit) for publishing an allegedly seditious article in 1999 regarding the Anwar Ibrahim trial. In 2002, opposition politician Marina Yusoff, charged with sedition for comments she made about the 1969 racial violence while campaigning for Parliament in 1999, was fined \$1,300 (5,000 ringgit).

In the past, the Bar Council and other NGOs called for a review of certain provisions of the OSA, accusing the Government of using the act to cover up corruption. In 2000, Ezam Noor, a former aide to Anwar Ibrahim, was charged under the OSA with disclosing secret Anti-Corruption Agency reports to the media. In August 2002, Ezam was convicted of the charge and sentenced to 2 years in prison, but he was released on bail in June pending appeal.

The English and Malay press provided generally uncritical coverage of government officials and policies and usually gave only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflected government positions on domestic and international issues. Print journalism was dominated by eight daily newspapers—two each publishing in English and Malay and four publishing in Chinese. One of the parties in the ruling coalition owned or controlled a majority of shares in each of the English and Malay dailies, and two of the Chinese dailies. Politically well-connected tycoons owned the other two Chinese-language newspapers. During the year, several newspaper vendors were the targets of official raids for selling opposition party or independently owned newspapers. However, self-censorship and biased reporting in the print media were not uniform and the English-, Malay-, and Chinese-language press sometimes provided balanced reporting on sensitive issues.

The Printing Presses and Publications Act (PPPA) limits press freedom. Under the Act, domestic and foreign publications must apply annually to the Government for a permit. The Act was amended to make the publication of "malicious news" a punishable offense, to expand the Government's power to ban or restrict publications, and to prohibit court challenges to suspension or revocation of publication permits. According to the Government, this amendment was made to ensure that "distorted news" was not disseminated to the public. Government power over annual license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. In October 2002, Deputy Home Affairs Minister Chor Chee Heung told Parliament that, from the beginning of 2001 until October 2002, 1,345 publications and printing premises were inspected and 2,305 volumes of publications were confiscated under the Act. Government officials continued to argue that the Act helped to preserve harmony and to promote peaceful coexistence in a multiracial

country.

On October 16, the Kuala Lumpur Magistrate Court sentenced human rights monitor Irene Fernandez to 12 months' imprisonment for malicious publication of false material. The sentence was suspended pending appeal. The charge under the PPPA stemmed from a 1995 memorandum entitled "Abuse, Torture and Dehumanized Treatment of Migrant Workers at Detention Camps." The magistrate rejected Fernandez's interviews as hearsay and noted that Fernandez had made no effort to visit the camps personally (the Government does not allow NGOs to visit the camps). The proceeding was the longest criminal trial in the country's history.

A draft Media Code submitted to Parliament in 2002 sought to establish a code of conduct for all print, radio, and television journalists and to form a regulatory Media Council. While the stated purpose of the code was to raise the standards of journalism, the National Union of Journalists publicly denounced the proposed Council as an attempt to curb media freedom. Media sources alleged that press freedoms declined during the year and that news editors had little freedom in deciding what to print. Editorial decisions were frequently left to editors-in-chief chosen by the Prime Minister's office. Media staffs were routinely required to attend briefings where they were asked to be more cooperative.

In September 2002, the permit of the independently owned Chinese language newspaper Oriental Daily Express was suspended on the day of the paper's first issue. The Home Affairs Ministry gave no reason for the suspension but allowed the paper to resume publication 2 months later. One month after resumption of publication, the newspaper cut its opinion page due to pressure from the Home Ministry and rival newspapers.

The Government also sometimes directly restricted the dissemination of information that it deemed embarrassing or prejudicial to national interests. For example, the Government continued its policy of not allowing public disclosure of air pollution index readings or deaths due to dengue fever.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to organization members. The PAS newspaper, Harakah, was the target of several ruling party-sponsored libel suits. Harakah was the only major Malay- or English-language print media forum for opposition views, and its circulation rivaled that of mainstream newspapers. Since 2000, under Government stricture Harakah has been limited to publishing only twice monthly instead of twice a week.

Most major newspapers have online editions, which generally fall outside government regulations, as they are not required to have publication permits. The Government engaged in a campaign to discredit the independent Internet daily, Malaysiakini.com, winner of an International Press Institute 2001 Press Freedom Award. In January, the ruling party youth movement, United Malays National Organization Youth, (UMNO Youth) lodged a complaint against Malaysiakini over a letter published on the website that allegedly contained seditious remarks. In response, police raided the daily's offices, confiscating 15 computers and 4 servers, and shutting down the company's online service for over 10 hours. While the Government continued to deny Malaysiakini formal press accreditation, its reporters were allowed to cover government functions and ministers' press conferences.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

During the year, the Government interfered with the timely release and distribution of several foreign magazines, including the Far Eastern Economic Review and The Economist. Government officials, including the Prime Minister, continued to accuse the foreign media of harboring ill intentions toward the country and of deliberately misrepresenting the country's political and economic environment by focusing on negative news. In September, the Deputy Home Minister said the Government would consider a ban against any foreign magazine that made unfounded allegations against the country and its leaders.

The electronic media was restricted more tightly than the print media. Radio and television stations almost uniformly were supportive of the Government's news coverage and commentary. News of the opposition was restricted tightly and reported in a biased fashion. Opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. In the period preceding a 2002 by-election, the government-owned television networks ran a recurring prime-time news clip likening the opposition PAS party to the Taliban.

The two privately owned television stations had close ties to the ruling coalition and were unlikely to provide a forum for the opposition parties. In 2002, the Government did not approve a longstanding license application for a state radio station in opposition-controlled Kelantan State. Internet television faced no such restrictions. In 2001, PAS launched its own Internet television studio, with daily broadcasts.

The Government censored books and films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. Some foreign newspapers and magazines were banned, and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the increased prevalence of the Internet undermined such restrictions. The Government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. The

Government continued to try to block the production, distribution, and sales of unauthorized video compact discs (VCDs) and digital video discs (DVDs), especially those with pornographic or sensitive political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In the past, the Government stated that it did not intend to impose controls on Internet use, but noted that it would punish the "misuse" of information technology under the CMA. During the year, the Government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

The Government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the ruling coalition. Some state governments banned certain Muslim clergymen from delivering sermons, and more recently, active monitoring of sermons began in certain states (see Section 2.c.). The Religious Affairs Department continued to conduct background checks on all clergymen. The Government also cracked down on the distribution and sale of the opposition party's VCDs and audiocassettes.

The Government places some restrictions on academic freedom, particularly the expression of unapproved political views, and the Government enforced restrictions on teachers and students who expressed dissenting views. In 2002, the Government began to require that all civil servants, university faculty, and students sign a pledge of loyalty to the King and the Government. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students. Although academics sometimes were publicly critical of the Government, there was clear self-censorship among public university academics whose career advancement and funding depended on the Government. In 2001, senior government officials said that teachers who opposed the Government and students who took part in anti-government activities would face disciplinary actions, including dismissal and expulsion. In February, a Universiti Teknologi Malaysia lecturer who was pursuing his doctorate had his scholarship revoked after he was found to have been involved in anti-government activity. In June, seven university students were denied the right to continue their studies after being charged with illegal assembly.

Private institution academics practiced self-censorship as well, fearing that the Government might revoke the licenses of their institutions. The law also imposes limitations on student associations and student and faculty political activity (see Section 2.b.).

The Government has long stated that students should be apolitical and used that assertion as a basis for denying parties access to student forums. According to student leaders, students who signed anti-government petitions sometimes were expelled or fined. The Government enforced this policy selectively and did not refrain from spreading government views on political issues among students and teachers.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly; however, in practice, the Government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice, senior police officials and political leaders influenced the grant or denial of some permits. Police granted permits routinely to government and ruling coalition supporters; however, they used a more restrictive policy with government critics. In July 2001, the Government ceased issuing permits for all political meetings throughout the country. This was widely perceived as an effort to target the activities of the political opposition, although some opposition rallies continued to be held. In 2002, PAS filed a suit against the Government protesting the ban. In January, opposition activists attending a political forum organized by PAS were arrested for illegal assembly. Similarly, in July, an outdoor march in support of rape victims was cancelled after police refused a permit on grounds of "public security." However, in September, the Elections Commission announced that public rallies by political parties would be permitted for the upcoming general election, subject to appropriate police permits.

In July, Suhakam's third annual report reiterated the Commission's earlier criticism of government-imposed restrictions on freedom of assembly. In 2001, Suhakam released a report highlighting the fact that the right of assembly is provided for in the Constitution; it recommended easing police permits for gatherings, setting up a special "speaker's corner," and reviewing laws that restrict the right to free assembly. The Government responded by calling the report "biased and idealistic" and influenced by "Western liberal thinking."

The Constitution provides for the right of association; however, the Government placed significant restrictions on this right and certain statutes limit this right. Under the Societies Act, only registered, approved organizations of seven or more persons may function as societies. The Government sometimes refused to register organizations or imposed conditions when allowing a society to register. The Government prohibited the Communist Party and affiliated organizations to register and has blocked the registration of the Socialist Party of Malaysia since 1999 (see Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the Act, a power that it enforced selectively against political opposition groups.

In 2001, Parliament amended the Registration of Businesses Act to enable the Registrar to revoke or refuse the registration of organizations deemed to be engaging in unlawful activities or with purposes that were incompatible with national security. Some human rights activists expressed concern that this could be used to restrict NGOs that were critical of the Government.

Under the Companies Act, the Registrar of Companies may refuse to register a proposed company or disband an existing



company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. Opposition parties and NGO activists alleged that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied these charges and stated that financial irregularities were the amendments' main target.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government argued that the act still was necessary.

#### c. Freedom of Religion

The Constitution provides for freedom of religion; however, the Government placed some restrictions on this right. Although Islam is the official religion, the practice of Islamic beliefs other than Sunni Islam was restricted significantly. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worshipped freely, although with some restrictions. Government funds supported an Islamic religious establishment, and it was official policy to "infuse Islamic values" into the administration of the country. The Government imposed Islamic religious law (Shari'a) on Muslims only in some matters and it did not impose Shari'a beyond the Muslim community. Adherence to Islam was considered intrinsic to Malay ethnic identity in peninsular Malaysia and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. Then-Prime Minister Mahathir's remarks about Jews at the October summit of the Organization of the Islamic Conference (OIC) drew international condemnation. Prime Minister Abdullah Badawi, who succeeded Mahathir 2 weeks after the OIC speech, subsequently emphasized religious tolerance towards all faiths.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits.

Muslims who wished to convert from Islam faced severe obstacles. In 2001, a High Court judge rejected the application of a Malay woman who argued that she had converted to Christianity and requested that the term "Islam" be removed from her identity card. The judge ruled that an ethnic Malay is defined by the Federal Constitution as a "person who professes the religion of Islam." The judge also stated that only an Islamic court has jurisdiction to rule on the woman's supposed renunciation of Islam and conversion to Christianity. In 2002, the Court of Appeal upheld this decision. These rulings made conversion of Muslims nearly impossible in practice.

In 2000, Perlis State enacted a law requiring that Muslims found guilty of apostasy by a Shari'a court be sent to "faith rehabilitation centers." Since its enactment, there have been no convictions under this law.

The Government generally respected non-Muslims' right of worship; however, state governments carefully controlled the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. In 1999, the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS) protested the planned implementation of Ministry of Housing and local government guidelines governing non-Muslim places of worship. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 adherents of a non-Muslim faith before a building permit would be granted. As a result of the controversy raised by this issue, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national "inter-religious" council to improve understanding among different religious groups. Muslim NGOs opposed the proposal, arguing that such a council would have powers to endorse apostasy and could pave the way for other religions to spread their teachings among Muslims.

Proselytizing of Muslims by members of other religions is strictly prohibited although persons proselytizing non-Muslims face no obstacles. The Government discouraged the circulation in the country's peninsular region of Malay-language translations of the Bible and distribution of Christian tapes and printed materials in Malay. However, Malay-language Christian materials could be found. The distribution of Malay-language Christian materials faced few restrictions in the eastern part of the country.

While representatives of non-Muslims do not sit on the immigration committee that approves visa requests from members of the clergy, the MCCBCHS is asked for its recommendation.

The Government opposed what it considers to be "deviationist" interpretations of Islam, maintaining that the deviant groups' extreme views endanger national security. In the past, the Government imposed restrictions on certain Islamic groups, primarily the small number of Shi'a Muslims. The Government continued to monitor the activities of the Shi'a minority and religious groups believed to be involved in deviant Islamic teachings. In 2000, the Shari'a Court in Kelantan State sentenced four persons to 3 years in jail for disregarding a lower court order to recant their allegedly heretical Islamic beliefs and to return to the true teachings of Islam. The High Court rejected their argument that Shari'a law had no jurisdiction over them because they had ceased to be Muslims. In 2002, the Court of Appeal affirmed the High Court ruling. The four individuals subsequently filed an appeal with the Federal Court that was still pending at year's end. In a similar case also in 2002, the Federal Court ruled that civil courts have no power to intervene in matters pertaining to Shari'a court orders involving Muslim parties and Islamic law.

The Government periodically detained members of deviant sects. In July, the Selangor Religious Affairs Department detained

67 members of the group Islam Jamaah, claiming that the teachings of the group were detrimental to society. The members were charged under the Selangor Shari'a Criminal Enactment and if convicted are liable to a 2-year jail term and/or a fine of \$800 (3,000 ringgit). The case was still pending at year's end.

The Government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The Government also restricted the content of sermons at mosques. The Government periodically warned against those who delivered sermons in mosques for "political ends," and, occasionally, state governments banned certain Muslim clergymen from delivering sermons at mosques.

For Muslim children, religious education according to a government-approved curriculum is compulsory. There were no restrictions on home instruction.

In 2002, the Government implemented a policy that requires all Muslim civil servants to attend Islamic classes taught by government-approved teachers.

In family and religious matters, all Muslims are subject to Shari'a law. Efforts by the PAS-led governments of Terengganu State and Kelantan State to implement Shari'a criminal law (see Section 5), which would impose Islamic penalties for theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam have been challenged in Federal court, and the cases were still pending as of year's end. In September, the Deputy Prime Minister stated that police could not enforce Islamic criminal law (hudud) until the Attorney General decided on the matter and that the criminal procedure code was still in effect in Terengganu. The PAS-controlled state governments in Terengganu and Kelantan have placed restrictions on non-Muslims consuming alcohol, gambling, and dancing. Reportedly, women were subject to discriminatory interpretations of Shari'a law and inconsistent application of the law from state to state.

The Government has a comprehensive system of hiring and other preferences for ethnic Malays and members of a few other groups, known collectively as "bumiputras," most of whom are Muslim (see Section 5).

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens generally have the right to travel, live, and work where they please; however, the Government restricted these rights in some circumstances. The eastern states of Sabah and Sarawak control immigration and require citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In 2002, the Federal Court ruled that Sabah's exclusive control on immigration was provided for in the Constitution and could not be challenged. In August, a prominent local human rights activist was denied entry to Sarawak and returned to peninsular Malaysia, allegedly due to her anti-logging positions. NGOs claimed that some citizens were blacklisted and not permitted to travel outside of Malaysia as they might "tarnish the reputation" of the country.

The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (see Section 1.d.).

Citizens must apply for government permission to travel to Israel.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and does not abide by customary international law in this area. The Government sometimes granted temporary refuge to asylum seekers. In August, the police arrested over 240 Acehnese asylum seekers outside the office of the United Nations High Commissioner for Refugees (UNHCR) in Kuala Lumpur. On August 28, the Prime Minister stated that Acehnese would not be allowed to seek political asylum and would be deported. The UNHCR and a number of human rights groups protested the government policy, asserting that it was contrary to customary international law.

In January, Suhakam called on the Government to reconsider caning as a penalty for illegal immigrants alleging that it amounts to cruel and inhumane treatment. The new immigration law, in effect since 2002, provides for 6 months in prison and up to six strokes of the cane for immigration violations. In practice, due to delays in processing travel documents, many illegal immigrants were detained in the camps for over a year (see Section 1.d.).

The Government does not distinguish between asylum seekers and illegal immigrants, and those under detention were detained together. Detention facilities were overcrowded and lacked medical facilities. Detainees allegedly were provided inadequate food and were subject to abuse. Local NGOs maintained that there were some forced expulsions of asylum seekers and refugees during the year.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

By law, citizens have the right to change their Government through periodic elections; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections.

In practice, opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. In 2002, the opposition retained a seat in the Kedah state assembly but lost a national Parliamentary seat in a tightly contested election. In the last national election, held in 1999, the opposition more than doubled the number of its seats in parliament from 20 to 45, out of a total of 193.

The country has a parliamentary system of government with a bicameral legislature. National elections are required for the lower chamber at least every 5 years and have been held regularly since independence in 1957. Members of the upper chamber, the Senate, are appointed. The Malay-based UMNO party dominates the ruling National Front coalition. Since 1969, the National Front coalition always has maintained at least a two-thirds majority in parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the Prime Minister. In October, Mahathir Mohamad, who had been Prime Minister since 1981, retired and relinquished power to his deputy, Abdullah Badawi.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November 1999 elections (see Section 2.a.). Government-owned stations and the country's two private television stations had virtually no impartial reporting on the opposition. The mainstream English- and Malay-language newspapers carried biased coverage of domestic politics as well. In addition, opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese-language newspapers.

Opposition leaders claimed that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but was perceived to be under the control of the Government. NGOs were permitted to form an independent election watch organization, but the organization was accorded no special privileges.

Opposition complaints of irregularities by election officials and allegations of other election fraud during the 1999 campaign were not substantiated, and, according to most observers, there was no evidence that the conduct of election officers significantly affected the results of the 1999 elections. Opposition leaders complained that, in the past, local government officials who served as election officers were not always neutral. In the 1999 elections, the Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts.

Opposition parties complained about their inability to monitor postal votes (absentee ballots) cast by police and military personnel. The Government, citing security concerns, did not allow party agents to monitor postal vote boxes on military and police installations. Opposition parties questioned the rationale for such security restrictions. They also raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under the eye of commanding officers.

In the 1999 elections, ballots were marked with a serial number that could be matched against a voter's name. While there was no evidence that the Government ever traced individual votes, some opposition leaders alleged that the potential to do so had a chilling effect on some voters, particularly civil servants.

The Constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In recent years, changing demographics and redistricting have reduced the voting advantage previously given to rural constituencies. The Government conducted a nationwide electoral redistricting exercise during 2002. In June, 25 new parliamentary seats were added primarily in states in which the ruling coalition is strong. In September, the opposition complained that the two states it controlled did not get any new seats and that the redistricting was undertaken by the Government to weaken the opposition in the next elections.

Other government measures hampered the opposition's ability to compete with the incumbent ruling coalition. For example, the Government on several occasions issued public warnings to civil servants, including teachers, not to support the opposition (see Section 2.a.). Students faced certain restrictions on political activity (see Sections 2.a. and 2.b.). Government leaders routinely and openly threatened to suspend the allocation of federal funds beyond the constitutionally mandated minimum to constituencies that elected opposition representatives. Ruling coalition members of Parliament received a government allocation totaling approximately \$25 million (95 million ringgit). Opposition members of parliament received no such funds.

In the past, the opposition complained about restrictions on public assemblies during the campaign period (see Section 2.b.). However, the opposition held many large rallies before the 1999 elections. In September, the Elections Commission indicated that it would lift the ban on political rallies for the next general elections.

In 2002, Parliament passed an amendment to the Election Offenses Act providing that anyone raising "sensitive issues" such as religion or race before, during, or after an election could be removed from the electoral roles or

banned from standing in an election for 5 years. It also prescribed a prison sentence of up to 5 years and a \$13,000 (50,000 ringgit) fine for violators of the law.

Under the electoral law, unsuccessful candidates may appeal election results to special election courts in instances of alleged fraud, vote tampering, or other infractions of electoral rules. However, in July 2002, Parliament passed an amendment to the electoral law forbidding judicial scrutiny of voter rolls after the Election Commission has certified them.

Over the years, Parliament's function as a deliberative body has deteriorated. Legislation proposed by the Government rarely was amended or rejected. Legislation proposed by the opposition never was given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. In 2001, a member of Parliament from the opposition Democratic Action Party was suspended without pay for 6 months after publicly criticizing the parliamentary Speaker for disallowing discussion concerning corruption in the process of certifying lawyers.

The 1995 parliament amended its rules to strengthen the power of the Speaker and to curb parliamentary procedures frequently used by the opposition. The amendments empowered the Speaker to ban members he considered unruly for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit non-germane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited even more severely members' opportunities to question and debate government policies. In 2001, an amendment to the parliamentary Standing Orders permitted the Speaker to edit written copies of members' speeches before the speeches were delivered. Nonetheless, Government officials often faced sharp questioning in Parliament, although this was not always reported in detail in the press.

After the 1969 inter-communal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the Government.

Women faced no legal limits on participation in government and politics, and the Government proposed a "plan of action for the advancement of women" to redress inequalities that did exist. At year's end, 3 of 28 cabinet ministers were women. Women held 20 of 193 seats in the House of Representatives, and they held 19 of 69 seats in the Senate. In 2001, the Prime Minister established the Ministry of Women's Affairs and Family Development and appointed a prominent female politician as its first minister. In August, noting the low percentage of women in legislative seats, the Minister of Women's Affairs asserted that, "It is a simple fact of life that women operate in a very unequal workplace environment." PAS does not allow women to stand as candidates for the House of Representatives; however, the party has three female senators. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in Government, as well as in senior civil service positions. The political dominance of the Malay majority meant, in practice, that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 9 of the 28 cabinet posts and 16 of 31 deputy minister positions. An ethnic Chinese leader of a component party of the ruling coalition was Chief Minister of Penang State.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The Government generally tolerated their activities but often did not respond to their inquiries or press statements. Government officials met with NGOs on several occasions during the year. Although Government officials harshly criticized domestic NGOs for collaborating with foreigners, including international human rights organizations, in recent years, no group was banned or decertified.

The Government generally did not allow international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of those organizations. The Government did not allow Amnesty International (AI) to set up a branch as an NGO. However, AI incorporated itself as a business, and it was able to function much like an NGO.

The National Human Rights Commission (Suhakam) under the leadership of former Attorney General Abu Talib has come to be seen by some analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. The legislation that created Suhakam defines human rights as "the fundamental liberties provided for" in the Constitution and restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. Opposition leaders and NGOs, including the Bar Council, criticized this definition of human rights as too narrow. Suhakam is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case.

In July, Suhakam published its third annual human rights report, which criticized deaths in police custody, detentions without trial, and reiterated Suhakam's opposition to government-imposed restrictions on freedom of assembly. It also called for the repeal and replacement of the ISA with new legislation that is more in line with human rights principles.

During the year, Suhakam commissioners traveled throughout the country to educate community leaders, including police

officials, on the purposes of the Commission and the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. In March, Suhakam released a report on the condition of ISA detainees. The report noted some human rights violations and outlined 18 recommendations aimed at improving conditions. Some observers credited Suhakam with the release of six opposition activists detained under the ISA.

Some observers acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however tentatively, executive control. In August, Suhakam itself noted that a major challenge that remained unresolved was the slow government response to their reports on major issues that touched on fundamental liberties. In September, the then-Deputy Prime Minister (now Prime Minister) praised Suhakam for playing a positive and constructive role in the national dialogue on human rights.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. In 2001, Parliament unanimously approved a constitutional amendment barring discrimination on the basis of sex. However, discrimination based on some of these factors persisted. For example, government policies gave preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas. Neither the Constitution nor other laws explicitly prohibited discrimination based on physical or mental disabilities, but the Government promoted greater public acceptance and integration of persons with disabilities.

#### Women

Violence against women remained a problem. Spousal abuse drew considerable government, NGO, and press attention. According to the Women's Aid Organization, there were over 3,000 cases of domestic violence reported during the year.

The Domestic Violence Act addresses violence against women in the home. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that, because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse.

Although the Government, NGOs, and political parties established shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. The police established a Sexual Investigations Unit at each police headquarters as part of a nationwide effort to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence improved, but women's rights activists claimed that the police needed additional training in handling domestic abuse as well as rape cases. In September, the Minister for Women and Family Development urged the Government to place female officers at each police station to deal with victims who are often reluctant to lodge reports with male personnel. In December, the Prime Minister, who is also the Home Affairs Minister, directed all district police stations to establish units specially trained to minimize the trauma faced by victims of sex crimes and domestic violence.

Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. However, provisions in state Shari'a laws generally prohibit wives from disobeying the lawful orders of their husbands and present an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, reportedly no man has been convicted under such circumstances.

Reports of rape were common in the press and among women's rights groups and NGOs. According to police statistics, 714 women were raped in the first 7 months of the year. Many government hospitals have set up crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women's Affairs and Family Development and a leading woman's NGO, only 10 percent of rape cases were reported to the police. In November, the Penal Code was amended to increase the punishment for rape to include imprisonment for a term of 5 to 30 years, caning, and a fine. While some rapists received heavy punishments, including caning, women's groups noted that other rapists received inadequate punishments. In September 2002, a police constable was acquitted of charges of raping two foreign women who were in police custody. The Sessions Court ruled that the acts had been consensual. Following sharp public criticism of the verdict, the Attorney General's office filed an appeal. In August, the High Court overturned the Sessions Court's decision and sentenced the policeman to 15 years in prison.

In July 2002, the PAS-controlled Terengganu state assembly passed the Shari'a Criminal Offenses Bill (see Section 2.c.). The Government, led by the Minister of Women's Affairs and Family Development, argued that the proposed law discriminates

against women, especially in regard to rape cases. Under the new state law, conviction for rape would require four Muslim male eyewitnesses of good standing to testify if adequate physical evidence was lacking. Women and non-Muslims would be barred from testifying. Illicit sex is punishable with death by stoning if the man or woman is married. For unmarried offenders, the punishment is 100 lashes and 1 year in prison. One prominent NGO critic of the law noted that the provision requiring four male witnesses originally was intended to protect women from false accusations of illicit sex and not as an additional burden of proof for rape victims. The law remained in limbo at year's end, as its implementation requires an amendment to the Federal Constitution. A suit filed in the Federal Court challenging a similar proposed Kelantan state law on the constitutional grounds that states have no authority over criminal law was pending at year's end.

In the past, some NGOs reported instances of female genital mutilation (FGM) in rural areas, but there have been no reports of such practices in recent years.

Prostitution exists but is not widespread. Prostitution was prosecuted but statistics were only available for foreigners arrested on immigration charges with suspected involvement in prostitution. The number of such persons arrested during the year was 5,584 compared to 4,132 arrested in 2001. Police attributed the increase to more vigorous enforcement efforts.

The country was a source and destination country for trafficking in women for purposes of prostitution (see Section 6.f.).

The Government's Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace provides a detailed definition of sexual harassment and attempts to raise public awareness of the problem, but women's groups advocated passage of a law on sexual harassment in lieu of the voluntary code of conduct. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. Since the Code's 1999 introduction, the number of reported incidents of sexual harassment has risen. In July, the Women's Aid Organization reported that it receives approximately 2,000 calls per year relating to all forms of abuse against women.

According to the Minister of Women's Affairs and Family Development, by September 2001 only 1 percent of registered companies in the country had adopted the code. Despite the 2001 approval of a constitutional amendment banning discrimination based on sex, women continued to be the victims of legal discrimination.

Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, was increasing steadily.

Women's rights advocates asserted that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of family laws among the various states. In 2002, the Sultan of Selangor, who is also the senior Islamic figure in the state, acknowledged the bias against women of Shari'a court judges. In previous years, female activists reported that the premarital courses Muslim couples are required to take perpetuated gender discrimination by misinforming women regarding their rights in marriage. However, there were no such reports during the year.

State governments in Kelantan and Terengganu, which were controlled by PAS, made efforts to restrict Muslim women's dress. In 2002, a local council in Kelantan fined 120 Muslim women for failing to adhere to the dress code while at work. In 2000, the Terengganu state government introduced a dress code for government employees and workers on business premises.

Non-Muslim women are subject to civil (secular) law. The Guardianship of Women and Infants Act was amended in 1999 to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In 2002, Parliament approved an amendment to the Group Settlement Act that gives wives of settlers a joint stake in the land awarded to their husbands.

The Government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. Women were represented in growing numbers in professional positions; however, in August the Minister of Women's Affairs and Family Development noted that, while 46 percent of public sector staff were women, only 15 percent held key posts. The media reported in September that women made up 12 percent of the police force. In the scientific and medical fields, women made up more than half of all university graduates, and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to the national union of bank employees, 65 percent of members were women, but only one out of eight principal banking officials was a woman.

#### Children

The Government has demonstrated a commitment to children's rights and welfare and spends approximately 23 percent of the national budget on education. The Government provides free education for children through 15 years of age. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. Actual attendance at primary school is 96 percent, while secondary school attendance is 82 percent. A variety of programs provided low cost health care for

most children.

In 2002, the Child Act of 2001 went into force. The act incorporates the principles of the U.N. Convention of the Rights of the Child, prescribing more severe punishments for child abuse, molestation, neglect, and abandonment. It also mandates the formation of a Children's Court, which the Government stated would better protect the interests of children; however, the court has not yet been established. The act allows caning of male children between the ages of 10 and 18 years, who may receive a maximum of 10 strokes with a "light cane."

The Government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. A 2002 amendment to the Penal Code provides for from 6 to 20 years' imprisonment and caning for individuals convicted of incest. In September, a man was sentenced to 14 years and 10 strokes of the cane for raping his 15-year-old daughter. However, under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. Moreover, Shari'a courts sometimes were more lenient with males who were charged with "close proximity." However, in many cases Muslim men were charged and punished for statutory rape under secular law.

In the past, some girls in rural areas were subject to varying forms of FGM (see Section 5).

Child prostitution existed, but child prostitutes often were treated as delinquents rather than victims. According to police statistics, in 2002, 97 girls under 18 were detained and sent to rehabilitation centers for involvement in immoral activities (see Section 6.f.).

Child labor occurred in certain areas of the country (see Section 6.d.).

### Persons with Disabilities

The Government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector job openings for persons with disabilities. Few public facilities were adapted to the needs of persons with disabilities, and the Government has not mandated accessibility to transportation or public buildings for persons with disabilities. However, new government buildings were generally outfitted with a full range of facilities for persons with disabilities.

In 2001, the Government announced the Code of Practice for the Employment of Persons with Disabilities in the Private Sector as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. In its second annual report, Suhakam recommended the passage of a Disabled Persons Bill to address discriminatory practices and to eliminate architectural and communication barriers facing persons with disabilities.

Special education schools existed, but were not sufficient to meet the needs of the disabled population. The Government undertook many initiatives to promote public acceptance of persons with disabilities, to make public facilities more accessible to persons with disabilities, and to increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not disabled-friendly, the Government reduced the excise duty for persons with disabilities on locally made cars and motorcycles by 50 percent. The most recent statistics indicated that persons with disabilities made up 7 percent of the population.

### Indigenous People

Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice, federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vest considerable authority in the Minister for Rural Development, to protect, control, and otherwise decide issues concerning this group. As a result, indigenous people, particularly in peninsular Malaysia, had very little ability to participate in decisions that affect them.

The Orang Asli, who numbered approximately 133,000, were the poorest group in the country. According to government statistics, over 80 percent of the Orang Asli live below the poverty level. In 2002, the Cabinet approved the formation of a national advisory council for the development of Orang Asli. However, only 5 out of 17 council members were Orang Asli. In July, the Government announced development projects for the Orang Asli totaling \$26.3 million (100 million ringgit) for the 2004

fiscal year focused on improving the health, pre-school education, infrastructure, and economic activities of the Orang Asli community. Nonetheless, according to a local NGO the percentage of Orang Asli living below the poverty line increased during the year.

Under the Aboriginal People's Act, the Orang Asli who had been granted land on a group basis were permitted to live on reserves but did not possess land rights. Observers reported that, over the years, the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve had been re-zoned for development.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. In May, Orang Asli in Pahang State were arrested for attempting to block logging trucks from entering their land. The press reported that they were later released on bail and the logging project was cancelled. In 2002, the High Court ruled in favor of an Orang Asli group, the Temuans, as the rightful owners of land used for the construction of the Kuala Lumpur International Airport and ordered the Selangor state government to give compensation. The state government has appealed the decision, and the case was still pending at year's end.

Indigenous people in Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they consider to be theirs under native customary rights. In 2002, for example, a court refused an injunction to stop two timber companies from conducting logging activities in an area that approximately 200 indigenous people in Miri, Sarawak, claimed was their ancestral land. The indigenous persons appealed the decision, and a decision was still pending at year's end.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The result was that many indigenous people were deprived of their traditional lands with little or no legal recourse.

Suhakam reported that the Bakun Dam project in Sarawak encroached upon the native land of the Penans and that this encroachment caused the degradation of the forests around Penan villages and the pollution of their water supply. The Commission also noted that the development of oil palm plantations encroached on traditional lands.

#### National/Racial/Ethnic Minorities

The Government maintained extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

## Section 6 Worker Rights

### a. The Right of Association

By law, most workers have the right to engage in trade union activity, but only 8.5 percent of the labor force was represented by the 609 trade unions. Those who do not have the right to engage in union activity include workers categorized as "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory, foreign workers can join a trade union; however, the Immigration Department placed conditions on foreign workers' permits that effectively barred them from joining a trade union (see Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to International Labor Organization (ILO) guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association.

Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (see Section 2.b.).

Malaysian Trade Union Congress (MTUC) officials continue to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires that a union be recognized within 21 days of application, it was not uncommon for unions to go unrecognized for 1 to 2 years. During the year there were 99 claims for trade union recognition under the Industrial Relations Act. However, according to MTUC officials, during 2002, there were 10 court challenges by private companies to decisions authorizing the formation of unions. Even in-house unions sometimes faced difficulties. One company resisted concluding a collective bargaining agreement for over 12 years, in part by changing its name five times. At year's end, the company union remained in limbo pending a decision by the Court of Appeal.



Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry. The Government believed that enterprise-level unions were more appropriate for this sector. According to MTUC officials, 150,000 electronics workers still were unable to organize and only 8 in-house unions were formed in the electronics industry. Collective bargaining agreements are limited in those companies designated as having "pioneer status." According to the ILO, the Government has promised to repeal this statute since 1994.

Unions maintained independence both from the Government and political parties, although individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain for local unions.

There are two national labor organizations. The MTUC is a society of trade unions, in both the private and government sectors, registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights, but provides technical support for affiliated members. Government sector unions had opportunities to affiliate with the Congress of Unions of Employees in the Public and Civil Service, a federation of trade unions registered under the Trade Unions Act. Trade unions were also permitted to affiliate with international trade union organizations, such as global union federations and the International Confederation of Free Trade Unions, subject to the approval of the Director General of Trade Unions. Although the law grants public servants the right to organize at the level of ministries and departments, the Government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There were three national joint councils representing management and professional civil servants, technical employees, and non-technical workers.

#### b. The Right to Organize and Bargain Collectively

Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics alleged that the Industrial Court was slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources failed. However, others pointed out that the Industrial Court almost always sided with the workers in disputes. In the past, employers reportedly often ignored Industrial Court judgments with impunity. In 2002, the number of Industrial Court chairpersons was increased from 14 to 23 to address the problem of backlogged cases.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The Minister of Human Resources can suspend for up to 6 months any trade union deemed to be used for purposes prejudicial to or incompatible with security or public order.

Although strikes are legal, the right to strike is severely restricted. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. The Government stated these essential services were considered crucial to the economy and the public interest. The MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to the Ministry of Human Resources statistics, there were 2 strikes and lockouts involving 57 workers during the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. When a strike is legal, these provisions prohibit employer retribution against strikers and leaders. However, some trade unions questioned the effectiveness of the provisions.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies were organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in pioneer industries.

#### c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, and the Government generally enforced this prohibition. Certain laws allow the use of imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, these laws were not applied and appear to be constitutionally prohibited.

The Government prohibits forced and bonded labor by children, and there were no reports that such practices occurred.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Children and Young Persons (Employment) Act prohibits the employment of children younger than the age of 14. The Act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the plantation sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor could be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers have largely replaced child labor and that the Government vigorously enforced child labor provisions.

#### e. Acceptable Conditions of Work

There was no minimum wage, as the Government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent living. Wage Councils, which were established by the Wage Council Act of 1947 to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, the Wage Councils had not met for more than 12 years, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. In April, the National Union of Plantation Workers (NUPW) and the Malaysian Agriculture Producers Association agreed on a monthly minimum wage for palm oil plantation workers of \$92 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly \$184 (700 ringgit). In April, rubber plantation workers were provided with a similar minimum guarantee.

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The Act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal immigrants, worked on plantations and in other sectors. According to statistics from the NUPW, foreign workers made up 45 percent of the plantation work force; however, the true number may have been higher since illegal immigrants were not counted. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belonged to the NUPW.

Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during the year occurred on plantations.

Foreign workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. In 2002, government investigations into this problem resulted in a number of steps to eliminate the abuse of contract labor. For example, in addition to expanding programs to regularize the status of immigrant workers during the year, the Government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

The Workmen's Compensation Act covers both local and foreign workers, but provides no protection for foreign domestic workers. According to the Government, foreign domestic workers are protected under the Employment Act, particularly as regards wages and contract termination. However, employers sometimes failed to honor the terms of employment and abused their domestic servants. Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the labor laws and have no legal recourse in cases of abuse.

The Occupational Safety and Health Act (OSHA) covers all sectors of the economy except the maritime sector and the military. The Act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The Act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

#### f. Trafficking in Persons

The Constitution prohibits slavery; however, this provision has not been invoked in cases of trafficking in persons. There is no law that specifically criminalizes trafficking in persons. However, section 372 of the Penal Code comprehensively addresses trafficking for the purpose of prostitution and prescribes up to 15 years in prison for those convicted. The Government also uses other laws, such as the Immigration Act, the Restricted Residence Act, and the ISA to prosecute traffickers. However, the authorities generally did not separate trafficking victims from other illegal immigrants.

The country was a source and destination country for trafficking in women and girls for sexual exploitation. Young women primarily from Indonesia, China, Thailand, and the Philippines were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses.

During the year, the police arrested 5,584 foreign prostitutes. According to the police, members of the Bar Council, and Suhakam, the majority of foreigners found to be involved in prostitution were economically motivated. There were allegations of corruption among law enforcement personnel since some trafficking victims were known to pass through two or more ports of entry without travel documents. One NGO alleged that high-level business and political officials were involved in the trafficking. In December, the police cracked a human smuggling syndicate including Malaysian Airlines and Malaysian Airports officials.

Some Malaysian women were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who were victims of trafficking were almost exclusively ethnic Chinese, although ethnic Malay and ethnic Indian women worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking. During the year, the Malaysian Chinese Association's social services department reported that the number of Malaysian women trafficked to other countries declined compared to previous years.

Trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year, there were a number of reports of foreign women escaping from luxury apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said that they were lured to the country by promises of legitimate employment and were forced into prostitution upon their arrival in the country.

In 2002, the Government amended section 372 of the Penal Code to include extensive provisions prohibiting buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, withholding clothing, or holding a person's passport) any person with the intention that that person will be used for the purposes of prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning and a fine, to be determined at the discretion of the sentencing judge. During the year, police investigated 31 cases under section 372, charged and tried 10 persons and convicted 7. There were 145 trafficking victims involved in these prosecutions. Additionally, during the year, 49 suspected traffickers were arrested under the Prevention of Crime Ordinance. In 2002, the Government charged 1,242 traffickers under the Immigration Act.

The Government assisted some underage prostitutes and rescued some kidnapped women during the year. In 2002, 97 underage prostitutes were sent to rehabilitation centers. The MCA reported that it assisted 73 trafficking victims in escaping from vice syndicates during the year. However, police had no comprehensive policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrested or deported individual women for immigration offenses. The police and members of the Bar Council legal aid bureau advised that this was the easiest and fastest way to expedite victims' return to their home countries. Trafficking victims who exhibit signs of physical abuse may be sent to a women's shelter instead of being detained by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain.

A number of NGOs supported by the Government provided shelter for trafficking victims and assisted them in being repatriated to their home countries.

The Government recognized the need to improve the treatment and protection of trafficking victims. A local women's NGO was working with the Bar Council to draft legislation specifically aimed at prosecuting traffickers and protecting victims. By year's end, no action had been taken on their proposals. In 2002, the Government formed an inter-agency trafficking-in-persons working group to formulate strategies and to strengthen inter-agency and public-private cooperation against trafficking in persons. Also in 2002, the Ministry of Home Affairs formed a special anti-vice task force to target trafficking and prostitution networks and to identify and deport foreign women who entered the country, legally or illegally, and subsequently engaged in the sex trade. During the year, this task force, with a stated policy of zero tolerance for those involved in trafficking, targeted vice syndicates. In November, the Government hosted a legislative workshop on the Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime; after which legislative was submitted to the Attorney General for review and action.